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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,403	03/29/2001	Tore Fosse	VCC0082-US	3278

28694 7590 12/18/2002

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EXAMINER

DRAPER, DEANN L

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/681,403	FOSSE ET AL.
Examiner	Art Unit	
Deanna L. Draper	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 September 2002 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 21,22 and 27-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 21,22 and 27-42 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 29 March 2001 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6)  Other: \_\_\_\_\_

***Acknowledgements***

The Amendment filed by the Applicant on September 30, 2002 is acknowledged. Claims 1 – 20 and 23 – 26 have been cancelled, and Claims 27 – 42 have been added.

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 22, and 27 – 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (US 5,480,184). Young discloses a hub (see Fig. 2) for fixing to a steering column (S in Fig. 2), a substantially conical bowl-shaped element (see Fig. 2) connected to the hub with at least one spoke (see Figs. 1, 2), the spoke further connecting the bowl-shaped element to a steering wheel rim (B in Fig. 1, 2), wherein the hub, bowl-shaped element, and at least one spoke are integrally formed as a single material item (see Fig. 2), the bowl-shaped element further comprising an upper shell part (24 in Fig. 2) and lower shell part (see area near 19 in Fig. 2), the upper shell part having larger outer dimensions than the lower shell part and the upper and lower shell parts are connected by a ledge extending substantially in the radial direction relative to the

longitudinal axis of the steering column (see Fig. 2), the bowl-shaped element also comprising a casing for enclosing an airbag and means for inflating the airbag substantially disposed in the lower portion of the steering wheel (18 in Fig. 2), where a wall section of the bowl-shaped element at least partly forms part of the means for inflating the airbag (see area, attachment at 19 in Fig. 2).

Regarding Claims 28, 29, 35 and 36, when the applicant claims an operation or characteristic of a device not explicitly disclosed in a prior art reference, the U.S. Patent and Trademark Office “possesses the authority to require the applicant to prove that the subject matter shown in the prior art does not possess the characteristics relied on.” *In re Ludtke and Sloan*, 169 USPQ 563, 566 (CCPA 1971). The applicant is required to prove that the subject matter shown would not have the weight distribution and dimensioning as claimed.

#### ***Response to Arguments***

Applicant's arguments filed September 30, 2002 have been fully considered but they are not persuasive. In response to Applicant's argument that Young discloses a dual airbag system with two airbags, including additional structure not required by Applicant's invention, it must be noted that Young discloses the invention as claimed. The fact that it discloses additional structure not claimed is irrelevant.

Regarding Applicant's argument that Young does not teach or suggest a ledge that extends substantially in the radial direction relative to the longitudinal axis of the steering column, the examiner disagrees. Young shows a ledge, which extends substantially in a radial direction relative to the longitudinal axis, as shown in Figure 2 of the attachment.

Regarding Applicant's argument that claims 28, 29, 35 and 36 are dependent claims and therefore not critical to the novelty of the invention at hand, the examiner disagrees. The fact that they are dependent claims does not mean that they are not critical. *In re Ludtke* states that "where the Patent Office has reason to believe that a functional limitation asserted to be critical for establishing novelty in the claimed subject matter may in fact be an inherent characteristic of the prior art, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristic relied upon." *In re Ludtke and Sloan*, 169 USPQ 566. Applicant cannot allege that just because the claims are dependent, they are not critical. The functional limitations are being claimed and are thus considered to be critical for establishing novelty. In *Ludtke*, the only alleged distinction between the claims and the prior art was recited in the functional language of the claims, requiring the applicants to show, when challenged, that the prior art does not actually possess the characteristics claimed. In this case, *Ludtke* applies because the functional language of claims 28, 29, 35 and 36 is the only distinction between those claims and the prior art, so the applicant is required to show that Young does not actually possess the weight distribution and dimensioning as claimed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deanna L. Draper whose telephone number is 703-306-5939. The examiner can normally be reached on Monday - Friday, 9:00 - 6:00.

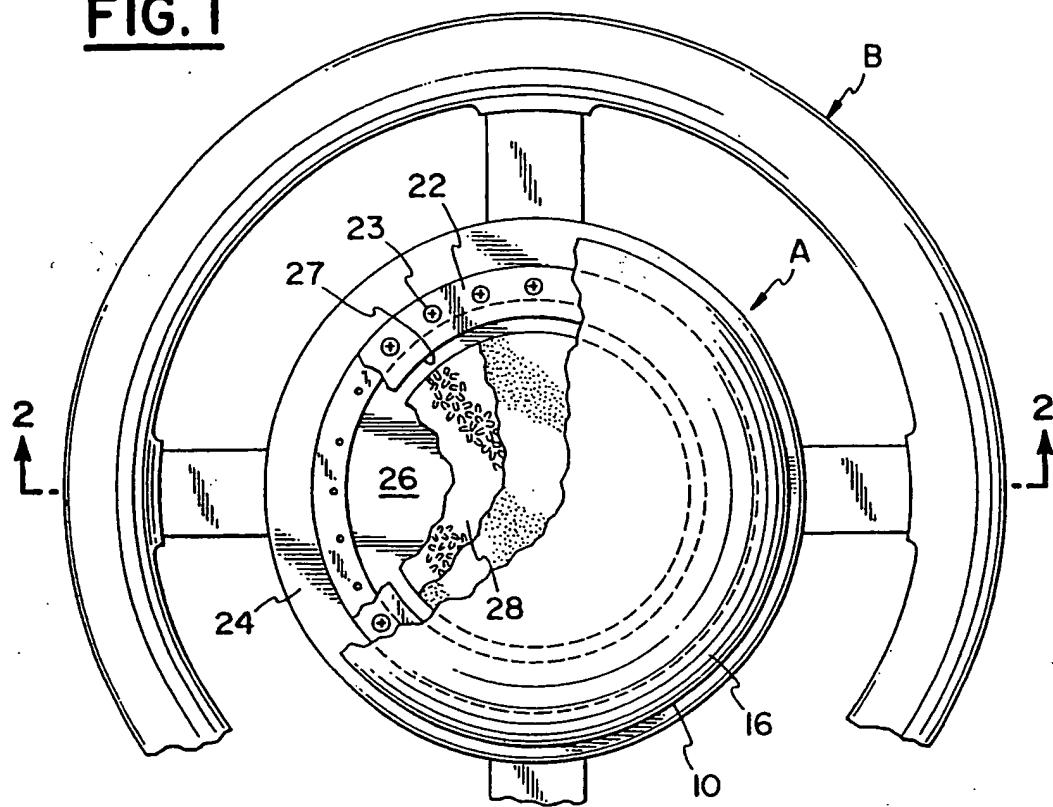
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

DEANNA L. DRAPER  
PATENT EXAMINER

dld  
December 13, 2002

*Paul N. Dickson* 12/14/02  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
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**FIG. 1****FIG. 2**